

## Appendix E

**OFFICE OF THE DIVISION COUNSEL**

1. Provides senior policy advice and legal counsel to the Commanding General and Division Engineer and the Headquarters, Pacific Ocean Division (HQ POD) staff. Performs technical oversight of District Counsel on legal matters for the Far East Engineer District (CEPOF), Japan Engineer District (CEPOJ), Alaska Engineer District (CEPOA), and Honolulu Engineer District (CEPOH). Counsel's determination that a proposed course of action is legally insufficient shall be followed unless referred to higher authority for resolution.
2. Supervises and evaluates performance of persons assigned to Office of Counsel in accordance with the approved rating scheme; provides input to District Commanders concerning performance of the District Counsel and is in the rating chain of District Counsel.
3. Exercises quality control and staff supervision over the Districts for various matters of legal consequence to the Division. These matters include, but are not limited to, operation of the Regional Business Center, implementation of the Competition in Contracting Act, compliance with the Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), Army Federal Acquisition Regulation Supplement (AFARS), and Engineer Federal Acquisition Regulation Supplement (EFARS).
4. Provides quality assurance and staff oversight for legal activities by POD District Offices of Counsel to include contract formulation; claims and appeals; general litigation; environmental regulation and compliance; public lands and related resource issues; civil works authorities; military programs issues, in particular procurement and fiscal law matters; and Host Nation Funded construction programs in Japan and Korea. These Host Nation programs include the Facilities Improvement Program in Japan, and the Republic of Korea (ROK) Funded Construction and Combined Defense Improvement Programs. Ensures that Districts are aware of, and effectively implementing and adhering to, settled legal principles and Chief Counsel, U.S. Army Corps of Engineers legal interpretations and established policies and procedures. Ensures District Counsel support of the Division's Regional Business Center.
5. Furnishes legal advice regarding the application of authorization and appropriation acts and other matters of Federal and State legislation as they affect the Division.
6. Pursuant to authority delegated by the Chief Counsel, USACE, decides agency bid protests in connection with procurement activities at Districts within POD. Provides advice and recommendations to the Commanding General and Division Engineer on requests for withdrawal or correction of bid arising from mistakes in bids at Districts within POD.
7. Manages the POD Ethics Program to ensure compliance with the Joint Ethics Regulation. Conducts appropriate ethics training for the Division staff. Ensures covered Division personnel file personal financial disclosure statements.
8. Pursuant to delegation from the Chief Counsel, USACE, acts as the Initial Denial Authority on Freedom of Information Act requests for release of records within the Division. May further

redelegate this authority to the Districts for requests originating within the respective Districts. Maintains quality assurance and staff supervision responsibilities for denial determinations issued pursuant to such delegations.

9. Responsible for the Department of the Army (DA) Procurement Fraud and Irregularities (PFI) Program, including reporting cases of suspected PFI and coordination of PFI investigations and remedies with investigative agencies and the Department of Justice (DOJ) within the Division. Prepares remedies, plans, litigation reports, and monitors PFI programs in the Districts.

10. Provides Division oversight to the Real Estate Office, Directorate of Civil Works and Technical, in legal matters. Reviews legal opinions written by the real estate attorney. Remains responsible for precedential and significant legal issues concerning real estate issues within the Division. Is in the rating chain and provides letter input to performance rating of the POD Real Estate Officer when the incumbent is an attorney. In the absence of the Real Estate Officer, provides Division level legal review of real estate instruments and actions.

11. Serves as Labor Counselor for the Division. Provides technical oversight for District labor counselor activities.

12. Provides legal advice and recommendation to the Commanding General and Division Engineer on requests for approval to utilize contractor prequalification procedures for acquisitions within POF. Serves as a member of the Division Prequalification Panel.

13. As delegated, acts as noncontractual claims settlement authority with claims settlement authority up to \$5,000.

14. Ensures that the Chief Counsel is made aware of cases and matters of national significance and/or precedential value. Informs the Chief Counsel of other non-legal management matters that could be nationally significant.

15. Provides legal advice in support of the effective operation of the Regional Business Center. This includes the review of regional contracts and the impact of the SOFA's in Japan and Korea on the Regional Business Center. Serves as a member of the Division's Regional Management Board providing leadership and management on the planning and implementation of the Division's strategic business processes.